

TOWN OF POLK
Plan Commission Minutes
March 3, 2009
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I. Call Meeting to Order - The meeting of the Plan Commission of the Town of Polk was called to order by Chairman Willard Heppe immediately following the Special Town Board.

A. Official Meeting Notice - Chairman Heppe reported that the notice of the meeting was sent to the West Bend Daily News, the Hartford Times Press, WBKV, WTKM, Milwaukee Journal Sentinel and posted at the Town Hall, Highway View School, Cedar Hills bulletin boards, and also posted on the Town of Polk website.

B. Roll Call - Members present: Willard Heppe, Karen Reiter, Mark Peters, Robert Roecker. Albert Schulteis, Marvin Kissinger, Supervisor Harold Groth, guest Supervisor Theodore Merten and Judy Stephenson, Zoning Secretary.

C. Approval of minutes for January 6, 2009 - Motion made by Karen Reiter to approve the January 6, 2009 minutes with the correction of Robert Roecker name in the motion to approve minutes and deletion of the Leid cemetery in section 35 - it is called the Earlean Held cemetery. Motion seconded by Albert Schulteis. All voted in favor and motion carried.

II. Unfinished Business - none

III. New Business - Discussion/Possible Action on the Following:

A. Conditional Use application by Jim Weinmann for US Cellular to construct a Telecommunications Tower with a related equipment cabinet to be located at 4627 Hwy. P, West Bend. Property owners are Ralph and Bonnie Hensel, 629 Highland View Drive, West Bend. Zoned M-1 Industrial. Tax Key T9-00007-00B. Section 1, 28.8 acres.

Discussion was held. Karen Reiter stated that the zoning district on U.S. Cellular proposal document must be changed from Town of West Bend to Town of Polk. Albert Schulteis stated that there should be a distance from the buildings of at least the height of the tower itself; the distance shown is 75 ft. but the tower height is 120 ft. Jim Weinmann stated that the location was largely at the request of the Mr. Hensel who was comfortable with the strength and durability of the tower. Karen Reiter stated that section 4.07 (6) of the Town Zoning Ordinance prohibits a tower closer than its own height to other structures and property lines. Mr. Weinmann then stated the tower would be moved over. Mark Peters stated there should be a red strobe light atop the tower. Chairman Heppe stated that the previously approved Fair Park tower permit must be surrendered when the Town Board acts on the new permit. Discussion was held on the performance bond. Mr. Weinmann stated that the previous bond was \$18,000.00 and a new one in that amount would be provided. He further stated that a lightning rod would be atop the tower bringing the height to 127 ft. and he would contact Charlie McCall, Flight for Life, to see

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if he had any concerns and to provide something in writing to the Town indicated no objections. Karen Reiter stated that a general public liability insurance policy providing a minimum of three million dollars per occurrence coverage and including the Town as additional named insured parties was previously required and this is again required. Mr. Weinmann stated that he would get the bond and the certificate of insurance and try to submit them at the same time.

Motion made by Albert Schulteis and seconded by Marvin Kissinger to recommend to the Town Board that the Conditional Use application for US Cellular be approved with all the conditions previously set forth in the Conditional Use Permit approved for the Fair Park and that 1) the previous CUP be surrendered 2) tower be at least 127 ft. from structures and property lines 3) Flight for Life approval in writing be obtained. All voted in favor and the motion carried.

B. Final CSM for one 5 acre lot out of a 24.94 acre parcel for George F. Garbade Trust, 4240 Sherman Rd., Slinger, zoned A-1 Agriculture. Tax Key T9-0691-00Z. Section 21.

Chairman Heppe stated that a question about the existing driveway on lot 2, which conjoins the lot being acted on, and goes through wetlands was answered with a letter from the DNR approving the driveway; letter was furnished by Mr. Garbade. Chairman Heppe stated that the location of a driveway for the new lot would be determined by the party issuing driveway permits which is the Town Chairman. Mark Peters asked how Mr. Garbade would gain access to the back part of his property. Mr. Garbade stated that he could access from Moraine Valley Drive if he paid a certain fee.

Motion made by Albert Schulteis and seconded by Marvin Kissinger to recommend to the Town Board that the final CSM for one lot for George F. Garbade Trust be approved. Mark Peters voted no, the rest voted in favor and the motion passed.

C. Business Use application for Daniel Pliss, 1425 W. Wisconsin Ave., Elm Grove, to operate a drive-thru / sit in coffee shop to be located at 4350 Hwy 60, Slinger, on property owned by Luay Ahmad, 4160 LLC, 4350 Hwy 60, Slinger. Tax Key T9-0603-00A. Section 16. Zoned B-1 Business.

Mr. Pliss stated that the drive-thru lane was kind of close to the gas pump but there was room to get around. Karen Reiter stated that a previous applicant for that location was required to paint parking stalls of not less than 180 square feet in front of the building; number of stalls must be equal to 1 for every 150 square feet of floor area. Mrs. Reiter further stated that traffic directional arrows must be painted.

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Motion made by Karen Reiter and seconded by Albert Schulteis to recommend to the Town Board approval of the Business Use application for Daniel Pliss contingent upon 1) driveway marked with painted traffic directional arrows 2) parking stalls of no less than 180 sq. ft painted on pavement in front of building 3) one parking stall per 150 sq/ ft. of floor area . All voted in favor and the motion passed.

D. Review of Business operations for Bechtel Landscaping, 4455 Hwy 144, Slinger.

Discussion was held. Dale Bechtel stated that he still uses a tub grinder and does not use water to wet down the dust but does have a shield and does not grind when the wind is from the east. Mark Peters stated that he saw the shield to help direct mulch as was requested by the DNR in their 2002 letter of complaint which also requires Mr. Bechtel to keep a log. Albert Schulteis stated that he visited the business and saw the log which has complete documentation for the last four years. Andy Barrett stated that for the past five years he has contacted Bechtel 4-5 times a year to complain about the dust and then they will shut down the grinding. Chairman Heppe stated that when he met with Mr. Barrett a few years ago over a complaint that dust was covering a car inside a building, he did not observe any dust. Mr. Barrett stated that was four years ago. He further stated that two years ago John Frey, Building Inspector, came out and saw the gutters full of bark dust and it does not matter which direction the wind is blowing. Mr. Barrett stated that this has been going on for ten years with the DNR getting involved in 2002. He further stated that the addition of Bechtel's Ackerville landscaping business site has not corrected the problem. Chairman Heppe stated that it was up to the DNR to regulate if Mr. Bechtel was in violation. Chairman Heppe further stated that he had talked to Wisconsin Town Association lawyer and was advised that maybe in a situation like this it should be a civil case; people like to come to the Town with these cases because it does not cost them anything. Andy Barrett then stated there was a water problem and asked if it were legal to dig a detention pond behind his property. *Mark Peters* stated that was a natural basin, not a created one; he had checked that out with Washington County, which has jurisdiction. Mr. Bechtel stated that he does not attempt to aggravate Mr. Barrett.

Motion by Karen Reiter and seconded by Albert Schulteis that Plan Commission is in agreement with Chairman Heppe that Mr. Barrett take the issue to Wisconsin Department of Natural Resources or to Civil Court if he wishes to pursue it. All voted in favor and the motion passed.

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E. Land Division Planning Map for one 5 acre lot out of a 23.6 acre parcel for Peter and Jeri Gerner, 4239 Old Homestead Dr., West Bend. Zoned A-1 Agriculture. Tax Key T9-0072-00B Section 4.

Chairman Heppe stated that the previously approved CSM of 8-8-06 has a lot 3 on it to provide an access to the back properties and that should stay on to prevent landlocking them; there is a lot of acreage back there and no way to access it. He further stated that the lot that is being created encompasses some of the future roadway. He also stated that the required 300 ft. road frontage is missing. Chairman Heppe stated that the Gerners could have 66 ft. on a cul du sac if they wished to put one in instead of the 300 ft. road frontage. Mr. Gerner questioned why he needed lot 3 since he now owns the back property; for access to the back he could use the 66 ft coming off of the road and proceed on back. Chairman Heppe stated that the 66 ft was owned by someone else and would require the removal of buildings to meet the road setback. Mr. Gerner stated that he has access to the 66 ft. Chairman Heppe asked to see the access and stated that some sort of performance bond would be needed to show that the buildings would be torn down to comply with setbacks. Discussion was held.

John Frey stated that he had met with Mr. and Mrs. Gerner on two occasions to try to accomplish what the Gerners wanted, which was to create a 5 acre parcel on his 20 acres and eliminate the access easement through the 20 acres and to the 60 acres to the west. He further stated that current existing 66 ft. strip of Old Homestead Drive is a formal, dedicated Town road which currently dead ends very close to what would be the concrete cow yard. Mr. Frey stated that the reason why Old Homestead dead ended into the Janz property was because at that time the Janz property was the only property on the end of the road; subsequent to that Steve Janz and Peter Gerner split their joint venture into two lots. He further stated that now Peter Gerner wishes to create a third parcel on the end of the Old Homestead dead end. Mr. Frey stated that he had strongly recommended that Mr. Gerner end up the dead end on Old Homestead with a tear drop cul du sac that would allow his existing lot and the one he wishes to create to each come off of the cul du sac with a minimum of 66 ft to be legal and to comply with the Town Land Division Ordinance. Mr. Frey also stated that he could take a 66 ft. strip off the end of the existing Old Homestead, parallel with his proposed west property line, and dog leg that back for access to back property. He further stated that Mr. Gerner could end up Old Homestead with a temporary cul du sac, paved according to Town standards, where his two proposed lots come in at that point which would comply with the rules and regulations. John Frey stated that this is the second plan brought in by Mr. Gerner and it cannot be recommended in its present form. Mr. Gerner stated that none of his neighbors want to see a 150 ft. slab of concrete that would serve no purpose and where people would be using it to turn around. Discussion was held.

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Erik Schmitz, surveyor, stated that he created a map with the tear drop cul du sac on it. Mr. Gerner stated that he had not provided that third plan to the Town. Chairman Heppe stated that there must be an outlot accessing the back property. John Frey stated that a modified version of the previously established lot three could be done with the 66 ft wide dog leg running down the west side of the proposed 5 acre lot and a 150 ft outside diameter with pavement radius of 100 ft. paved cul du sac. He stated that the cul du sac must be done professionally, paved to Town standards and provide proper drainage; they would be working with Scott Schmidt at Washington County and this would be a possible private future road.

Motion made by Harold Groth and seconded by Robert Roecker to recommend denial of the Land Division Planning Map for Peter and Jeri Gerner to the Town Board. All voted in favor and the motion passed.

F. Petition for Ordinance change to Title X of the Municipal Code of the Town of Polk Zoning Ordinance Section 13.02 to change definition of Livestock Unit to exclude small numbers of poultry and rabbits when determining how many animals may be kept on a property.

Jason Griesbach stated that under the current Ordinance a person with 5 acres could have two horses but then could not have some chickens and or rabbits for pets because they are only allowed two livestock units. He further stated that he would like the Ordinance changed to allow some chickens and rabbits in addition to horses and large animals. Karen Reiter stated that the definitions were done in the 1970's and she suggested three new definitions. Discussion was held. Albert Schulteis stated that roosters must be regulated due to the crowing. John Frey stated that no roosters should be allowed on properties of less than 15 acres. Further discussion was held.

Motion made by Karen Reiter and seconded by Mark Peters to recommend to the Town Board that the petition for Ordinance change to Title X be tabled and brought back to the Plan Commission when it is rewritten to address concerns brought up. All voted in favor and the motion passed.

G. Petition for Ordinance change to Title X of the Municipal Code of the Town of Polk Zoning Ordinance Section 4.00 to include outdoor boilers, furnaces or stoves as a conditional use.

Albert Schulteis stated that the sentence about excluding outdoor furnaces in nonconforming A-1 Agricultural parcels should be removed. John Frey stated that the difference between an enclosed fireplace or furnace, both of which do not generate complaints, and the outdoor furnaces

seems to be chimney height. Discussion was held.

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Motion made by Albert Schulteis and seconded by Karen Reiter to recommend approval to the Town Board of the petition for Ordinance change with the removal of sentence which excluded these systems on nonconforming A-1 Agricultural parcels. All voted in favor and the motion passed.

H. Town of Polk Multi-Jurisdictional Comprehensive Plan

Discussion was held. It was decided that Nancy Anderson from SEWRPC would not need to attend the April Plan Commission meeting. Mark Peters stated that post cards should be sent to residents to notify them of the Comprehensive Plan Open House once it is scheduled. Chairman Heppe stated that response was poor to the Open Book and Board of Review notices that were sent and post cards would be an unnecessary expense.

F. Zoning Violations - Judy Stephenson stated that a complaint had been received about a property on Highland Park Drive where the tenant appears to have advertised for someone to rent a room there: No rooming houses are allowed in the Town. She further stated that a letter had been sent some months ago to the owner. Chairman Heppe stated that we should wait til there was proof of an actual violation to take further action.

IV. Other Business

A. Correspondence - Albert Schulteis will attend the Public Hearing on March 11, 2009 at Village of Slinger regarding amendment of their land use plan to incorporate a State Park in the Town of Polk.

B. Informational items - none

C. Board of Appeals - none.

D. Building Inspector's Report - none

V. Adjournment - Motion made by Karen Reiter and seconded by Mark Peters to adjourn. All voted in favor and the meeting was adjourned at 9:17 p.m.

Respectfully Submitted,

Judy Stephenson
Zoning Secretary